



Correspondence Management System

Control Number: AX-16-001-1461

Printing Date: August 24, 2016 10:22:05



Dec 9/16
Signed
9/18
Received
&
Closed
9/14

Citizen Information

Citizen/Originator: Shapiro, Barry

Organization: Private Citizen
Address: Address Unknown

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-16-001-1461 Alternate Number: N/A
Status: Pending Closed Date: N/A
Due Date: Sep 6, 2016 # of Extensions: 0
Letter Date: Aug 20, 2016 Received Date: Aug 22, 2016
Addressee: AD-Administrator Addressee Org: EPA
Contact Type: EML (E-Mail) Priority Code: Normal
Signature: Division Director, R4-WPD Signature Date: N/A
File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: Environmental Disaster at Spoonbill Marsh water treatment Facility
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: Assigned to WPD for response
CC: OITA - Office of International and Tribal Affairs
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Shari King	OEX	R4	Aug 23, 2016	Sep 6, 2016	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Wanda Hudson	R4	R4-WPD	Aug 24, 2016	Sep 6, 2016	N/A
Instruction: R4-DD-Please prepare response for Division Director's signature. When signed, originating office should mail original and any cc's. Please hand-carry or email signed copy of response to Wanda Hudson, OGR for close-out of control. If any questions, contact Wanda at X29351. THANKS.					

Supporting Information

Supporting Author: N/A



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Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
Shari King	OEX	Assign R4 as lead office	Aug 23, 2016
Wanda Hudson	R4	Changed Signature DX-Direct Reply Division Director, R4-WPD	Aug 24, 2016
Wanda Hudson	R4	Accepted the group assignment	Aug 24, 2016
Wanda Hudson	R4	Assign R4-WPD as lead office	Aug 24, 2016

Comments

Commentator	Comment	Date
No Record Found.		

Mon Aug 22 08:55:39 EDT 2016
Leavy.Jacqueline@epamail.epa.gov
FW: Spoonbill Marsh
To: CMS.OEX@epamail.epa.gov

From: Barry Shapiro [mailto:(b) (6)]
Sent: Saturday, August 20, 2016 3:55 PM
Subject: Spoonbill Marsh

My name is Barry Shapiro. I am not a politician, scientist, environmentalist or an expert in any way when it comes to the important issues of our ecology. I am a concerned citizen who has come across what I believe is important information about our county officials and the damage being done to important ecological expanses in Indian River County where I live. I am passing along to you what I believe to be vital information about an environmental disaster taking place at the Spoonbill Marsh water treatment facility operated by the county. This report has come to me through a source that wishes to remain anonymous. I have been led to believe this is not only an environmental tragedy but also a potentially criminal action. I have since spoken with a number of experts who have either confirmed the report or agreed with and in some cases added to the available anecdotal information. To say the least, I am angry and I want action.

The report shows that the Spoonbill Marsh Wastewater Treatment facility was not built to its approved design, is not being operated by Indian River County within the restrictions of its operating permit, including knowingly allowing illegal discharges of untreated wastewater, and that county officials have submitted false and misleading information about the facility's operation to cover up this this illegal activity from regulators and the public.

In addition to the report I am submitting, Spoonbill is having a negative impact on fish breeding and surrounding native flora. Spoonbill is not functioning as a native wetland and is not functioning as it was designed to do. Despite the protestations of many scientific and environmental experts the county officials went to great expense to create the 3 marshes that treat waste water in the county.

I am requesting that you look at the enclosed materials to determine that an independent review of the facility is warranted. If the information is correct I believe you will find ample reason to investigate for yourself. I am also led to believe by reliable sources that this information just scratches the surface of what is going on at the marsh facilities. This report has been shown to a creditable group of environmentalists and scientists who concur with its content.

In addition there is ample anecdotal evidence to spur an independent audit of the marshes. For the purpose of this report I will stick to the known facts about Spoonbill Marsh. The attached document is an overview I have written with bullet points to highlight our case. The in-depth, detailed report is available upon request. We also have photographic and video evidence to support our claims that is available as well.

I respectfully await your response. I am available at your convenience to discuss this report and anything else related to the catastrophe that is Spoonbill Marsh.

Sincerely,

Barry Shapiro

SPOONBILL MARSH FACT SHEET

The following points are facts supported by scientific evidence.

We do not attempt to address potential problems with Osprey Marsh or Egret Marsh, but we believe that these have reporting issues as well.

The bottom line is that Spoonbill Marsh, which is in reality a liquid toxic waste dump, is not operating as designed or permitted.

When properly investigated by an independent agency, this could be grounds for legal action to stop illegal discharges of toxic and untreated wastewater.

Salient points:

Spoonbill Marsh is not properly functioning, and not being properly maintained by the county specifically as to how it collects and reports data.

On the record, based on the Official self-reported and unaudited DMR figures from January, 2015 to June, 2016, Spoonbill takes in on average 2.99 million gallons per day of toxic brine and water from the Indian River Lagoon. The number can vary somewhat according to weather and other factors.

Approximately 0.5 to 1.0 million gallons run out of Spoonbill a day. IRC claims that an average of 2.28 million gallons are pumped out but their figures are contradicted by site visits by experts. The county doesn't have a system in place to meter the outfall, as required by the permit, so they go by their own best estimate.

Given this disparity, approximately 2.0 - 2.5 million gallons of effluent (untreated wastewater) is unaccounted for every day. That totals almost 1 billion gallons unaccounted for each year.

The county audits itself and reports its findings to the DEP. By the county's self-audit report no missing water has ever been accounted for, giving the appearance of a "don't ask, don't tell" policy between the DEP and the County. This 'tacit agreement' between the county and the DEP may have been going on since Spoonbill's inception.

By design there are supposed to be 2 outfalls for Spoonbill water. As per independent site inspection, only one outfall is in use. The other to the north has apparently not worked for years. Therefore all effluent MUST go through the one functioning outfall. As a condition of the permit all discharges must go through these outfalls. Obviously the majority of this unaccounted for water is going somewhere else.

The difference in the amount of input and outfall cannot be accounted for by evaporation leaving the question "where is this water going?"

A 1 inch rainfall adds about 1.8 million gallons to the unaccountable wastewater volume.

IRC is operating Spoonbill Marsh in flagrant violation of its permit.

These are supportable facts. That said, it is likely that the official figures greatly understate the problem. There is also much anecdotal evidence to support these claims:

According to one expert witness, the Indian River Land Trust had been aware of overflow from Spoonbill Marsh entering the abutting IRLT property, but does not know the extent of the emissions.

Site visits by experts that were recorded on video show that the measured outfall rate (area-velocity method of measurement) for a 24 hour period only comes to 646,317 gallons. This falls far short of the amount reported by the county. It is a simple measurement because the outfall is just a trench that is approximately 2' wide and 1' deep.

Observers standing atop the weir (containment berm) clearly saw that Spoonbill's water level was over the top of the weir and flowing onto neighboring property. Photographic evidence of this is available upon request. The licensed design does not permit the facility to operate with a water elevation that over tops the containment.

It is possible that certain media outlets are aware of these facts but are burying this story until after the coming county elections. If true this would clearly indicate a potential conflict of interest.

cc Governor Rick Scott, Governor, State of Florida; Karl Rasmussen, Deputy Chief of Staff, Office of the Governor of Florida; Brad Papeznbrink, Deputy Chief of Staff, Office of the Governor of Florida; Kim McDougal, Chief of Staff, Office of the Lieutenant Governor of Florida; Lieutenant Governor Carlos Lopez-Cantera, Lieutenant Governor, Office of the Governor of Florida; Lenne Zeller, Chief of Staff, Florida Department of Environmental Protection; Jennifer Fitzwater, Chief of Staff, Florida Fish and Wildlife Conservation Commission; Sen. Marco Rubio, United States Senator, United States Senate; Sen. Bill Nelson, United States Senator, United States Senate; Hon. William Posey, United States Representative, United States House of Representatives; Sen. Joe Negron, Florida State Senator, Florida State Senate; Hon. Debbie Mayfield, Florida State Representative, Florida State House of Representatives; Enn Grall, Candidate for State Representative, District 54; Charles Kirby, Candidate for Indian River County Commissioner; Jay P. Kramer, Candidate for Indian River County Commissioner; Timothy Zorc, Commissioner, District 3, Indian River County; Robert Solen, Commissioner, District 5, Indian River County; Joseph E. Fleischer, Commissioner, District 4, Indian River County; Peter D. O'Brien, Commissioner, District 2, Indian River County; Wesley S. Davis, Commissioner, District 1, Indian River County; Joseph H. Earmen, Jr., Candidate for Indian River County Commissioner; Susan P. Adams, Candidate for Indian River County Commissioner; Richard H. Gilmer, Candidate for Indian River County Commissioner; R. Grant Gilmore, Ph.D. Richard H. Baker, Ph.D. David L. Cox, Ph.D. Duane E. DeFresse, Ph.D. Brian E. Lapointe, Ph.D., Harbor Branch Oceanographic Institute, FAUM; Dennis Hanisak, Ph.D., Harbor Branch Oceanographic Institute, FAU; Sara Ouly, Water Quality Analyst, Harbor Branch Oceanographic Institute, FAU; Matt Ajemian, Ph.D., Assistant Research Professor, Harbor Branch Oceanographic Institute, FAU; Mike Winkoff, Hometown News; Tyler Treadway, Environmental Reporter, TCPalm; Laurence Reisman, TCPalm; Eve Samples, TCPalm; Sanika Dange, WBFTV; Jacquelyn Powell, Reporter, WFTV; Jon Shanman, Reporter, WFTV; Gabrele Sarahn, Reporter, WFTV; Mark Schumann, Editor, Inside Vero; Matt Thomas, Inside Vero; Steven M. Thomas, Editor, Vero Beach 32963; Hym Wayner, Environmental Reporter, Florida Today; T. Hardy, Vero Communicque; Bob Soos, Mayor of the Airwaves, WTTB; Gina McCarthy, Administrator, United States Environmental Protection Agency; Cynthia Giles, Assistant Administrator, United States Environmental Protection Agency; Susan Shirkman, Director, United States Environmental Protection Agency; Mustafa Ali, Associate Assistant Administrator for Environmental Justice, United States Environmental Protection Agency; Heather McTeer Toney, Region 4 Regional Administrator and Deputy Regional Administrator, United States Environmental Protection Agency; Joel Beavries, Deputy Assistant Administrator, United States Environmental Protection Agency; Michael H. Shepero, Deputy Assistant Administrator, United States Environmental Protection Agency; Ellen Galsky, Deputy Assistant Administrator, United States Environmental Protection Agency; Clifford D. Wilson III, Secretary, Florida Department of Environmental Protection; Christine C. Ferraro, Program Administrator, Water Facilities, Florida Department of Environmental Protection; David Herbster, Program Administrator, Florida Department of Environmental Protection; Gary Miller, Program Manager, Wastewater Compliance Enforcement, Florida Department of Environmental Protection; William Martin, Professional Geologist Administrator, Florida Department of Environmental Protection; Jessica Kienfater, Program Administrator, Florida Department of Environmental Protection; Elise Potts, Florida Department of Environmental Protection; Frederick L. Aschauer, Jr., General Counsel, Florida Department of Environmental Protection; Robert A. Williams, Chief Deputy General Counsel, Florida Department of Environmental Protection; Shayne Acree, Administrative Assistant, Florida Department of Environmental Protection; Justin G. Wolfe, Deputy General Counsel, Florida Department of Environmental Protection; Yolande Richardson, Administrative Assistant, Florida Department of Environmental Protection; Michael Tanski, Environmental Consultant, Florida Department of Environmental Protection; Leandra Garza, Environmental Manager, Florida Department of Environmental Protection; Sabe Smith, Environmental Specialist II, Florida Department of Environmental Protection; Jennifer Walters, Florida Department of Environmental Protection; Luis J. Santiago, Special Agent-in-Charge, U.S. Fish and Wildlife Service; Ken Warren, U.S. Fish and Wildlife Service; Tom MacKenzie, U.S.

Fish and Wildlife Service Larry Williams, State Supervisor, U. S. Fish and Wildlife Service Victoria Foster, Chief of Staff, U. S. Fish and Wildlife Service Ashleigh Blackford, Planning and Resource Conservation, U. S. Fish and Wildlife Service Ken Warren, Public Affairs Specialist, U. S. Fish and Wildlife Service Emily Bauer, Ecologist, Endangered Species, U. S. Fish and Wildlife Service David Bender, Botanist, Endangered Species, U. S. Fish and Wildlife Service Patrick Pitts, U. S. Fish and Wildlife Service Robert G. Holland, U. S. Army Corps of Engineers George Simons, IRC Soil and Water Conservation District Robert C. Adair, Jr., IRC Soil and Water Conservation District David E. Gunter, IRC Soil and Water Conservation District Robert J. Lindsey, IRC Soil and Water Conservation District

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 08 2016

Mr. Barry Shapiro

Sent: (b) (6)

Dear Mr. Shapiro:

Thank for your August 22, 2016, email correspondence with the U. S. Environmental Protection Agency Region 4, regarding the Indian River County Utility Department's (IRC), North County Demineralization Concentrate Industrial Wastewater Facility's National Pollutant Discharge Elimination System (NPDES) Permit No.: 31-FL0166511, for the Spoonbill Marsh Wetlands System (SMWS). In your email you express concerns regarding IRC's (i) failure to construct the SMWS facility according to the approved specifications, (ii) failure to operate within the permit restrictions, (iii) nitrogen and phosphorus effluent limitation violations, (iv) violation of "net environmental benefit" requirements, and (v) negative impacts on fish breeding and the surrounding flora habitat.

Under the provisions of Section 402(b) of the Clean Water Act, the Florida Department of Environmental Protection (FDEP) is authorized to administer the NPDES permit program. As such, the EPA has communicated with the FDEP Southeast District office to discuss your concerns. On September 1, 2016, the EPA contacted Mr. Bradley Akers of the Southeast District office. Mr. Akers reported that the permitting jurisdiction for the IRC was transferred to FDEP's Southeastern District office in 2012 from the Central District office. Additionally, Mr. Akers indicated that IRC's permit is scheduled to expire in 2017, and that the staff from the Southeast District office recently conducted a site visit to ascertain the condition of the facility in preparation for evaluating IRC's next permit application. Mr. Akers further indicated that the FDEP is working to conclude the ongoing evaluation of information collected from their site visit. For more information and/or questions regarding FDEP's results please contact Mr. Akers at the FDEP Southeast District Office at (561) 681-6600.

We appreciate your desire to protect and preserve the Florida environment. If we may be of further assistance, please contact Mr. Namon Mathews, in the Region 4 Municipal & Industrial Enforcement Section at (404) 562-9777.

Sincerely,

James D. Giattina
Director
Water Protection Division

cc: Mr. Bradley Akers
Florida Department of Environmental Protection, Southeast District Office

